

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LUKE SCOBIE,

Plaintiff,

v.

**ABSOLUTELY CHICAGO GLIDING
TOURS, LLC,**

Defendant.

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Case No. 17 C 3277

MEMORANDUM ORDER

Just three days ago (on May 1) Absolutely Chicago Gliding Tours, LLC ("Gliding Tours") filed a Notice of Removal to move this case, which Luke Scobie had brought against it in the Circuit Court of Cook County, to this District Court under the diversity-of-citizenship branch of federal jurisdiction. Unfortunately Gliding Tours' counsel was unaware of the prohibition in 28 U.S.C. § 1441(b)(2)¹ that precludes removal in diversity-based cases by any citizen of the forum state (Gliding Tours is admittedly an Illinois citizen).

With Gliding Tours' counsel then having discovered that error almost immediately, on the very next day (May 2) he filed a Motion for Voluntary Remand to restore the case to the state court docket. This Court grants the motion, as is mandated by Section 1447(c), and in accordance with the provisions of that section the Clerk of this District Court is ordered to mail a certified copy of the order of remand to the Clerk of the Circuit Court forthwith, to enable that court to proceed with the case in the regular course.

¹ All further references to Title 28's provisions will simply take the form "Section --," omitting the prefatory "28 U.S.C. §."

Gliding Tours' motion also seeks to render its mistake cost-free (except, of course, for its lawyers' work) by seeking a refund of the \$400 filing fee paid for removal. This Court was unaware of any authority for such a request to be granted by judicial order, and its inquiry to the Clerk of Court has confirmed that a universally applicable federal rule said to go back to the 1940s precludes such relief -- a rule that bringing an action through the courthouse door (in a figurative sense), whether as an original matter or otherwise, carries a nonrefundable price tag. That aspect of Gliding Tours' motion is accordingly denied.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style.

Milton I. Shadur
Senior United States District Judge

Date: May 4, 2017